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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/521,096	01/13/2005	Fulvio Boldrini	2545-0464	4551

7590

10/06/2006

Harbin King & Klima  
500 Ninth Street SE  
Washington, DC 20003

EXAMINER
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DESAI, HEMANT

ART UNIT	PAPER NUMBER
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3721

DATE MAILED: 10/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/521,096

Applicant(s)

BOLDRINI ET AL. ✓

Examiner

Hemant M. Desai

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 August 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over German Patent (3531728) in view of Nishio et al. (6387028).

German Patent ('728) discloses a system for forming containers and comprises a first feed station by which a continuous strip (4, fig. 1) of a forming material is directed along a predetermined feed path, a main reel (6, fig. 1) rotatable about a relative longitudinal axis, from which the strip (4) is decoilable along the feed path, a second feed station (19, fig. 1) supplying a single file of tubular element (5, fig. 1) generated from the strip, sealing means (24, fig. 1) operating on a first open end of each tubular element (5) in such a way as to enclose the selfsame first end (see page 9, line 27 to page 10, line 3), at least one wheel (21, see fig.) movable between a first position of reception of the tubular elements (5) and a second position alignment of the tubular elements with the sealing means (24).

German Patent ('728), as mentioned above discloses the wheel except for the wheel being rotatable around the axis, which is perpendicular to the transportation direction of the tubular elements. Nishio et al. disclose that it is known in the art to provide a wheel (32, fig. 1) movable between a first position (33, fig. 1) of reception of the tubular elements (11, fig. 1) and a second position alignment of the tubular elements

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with the sealing means (34, 37, fig. 1) being rotatable around the axis which is perpendicular to the transportation direction of the tubular elements (see the arrow in fig. 1). Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the parallel axis of the wheel of German Patent with the perpendicular axis of the wheel of Nishio et al. in order to receive the tubular elements in first position and to seal the tubular elements in the second position.

Regarding claim 2, German Patent discloses that the wheel comprises a central hub (see fig.) rotatable about a respective axis; also a plurality of supporting elements projecting radially from the hub and serving to carry the tubular elements (5), of which the supporting elements (13) each present a first end anchored to the hub and a second end remote from the first end (see fig.).

Regarding claim 3, German Patent discloses that each supporting element of the wheel presents a substantially parallelepiped shape matched to the internal geometry of the tubular element (5), in such a way that each tubular element (5) can be fitted over a respective supporting element with the relative first open end positioned at the second end of the supporting element.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 4-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over German Patent (3531728) and Nishio et al. as applied to claims 1-2 above and further in view of Japanese Patent (63082736).

The modified German Patent, as mentioned above, discloses the sealing means, except for first and second joining heads to close the open end of the tubular element. However, Japanese Patent ('736) teaches the sealing means (160, fig. 31) having the first joining head (140-141, 144, figs. 26-29) and second joining head (185, 195, 199, 201, 212, figs. 34, 36 and 40) for closing the open end of the tubular element (55, fig. 4). Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the sealing means having first and second joining heads as taught by Japanese Patent ('736) in the modified system for forming containers of German Patent to for close the open end of the tubular element.

Regarding claims 5-6, the first joining head (10a) comprises two folder elements (15) by which the corresponding sides (14) of the open end (2b) are drawn together and the respective top edges (14a) of the sides matched one to another; also sealer (15a) operating on the two edges (14a) in such a way as to secure the selfsame edges one to another, and two restraints (201, figs. 37-39) positioned in alignment with the press (212, fig. 39), so that each end fold (89, fig. 4B) will locate against a respective restraint under the action of the press.

Regarding claim 8, the second joining head (210, fig. 39) comprises an arm (213) capable of vertical movement and offered to the flattened end folds (89) at central point on the base surface.

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5. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over German Patent (3531728) and Nishio et al. as applied to claim 1 above and further in view of Reil et al. (5069021).

The modified German Patent, as mentioned above, discloses all the limitations, except for a forming device positioned to coincide with the feed station and bend the blank around the former of shape corresponding to the shape of the tubular element. However, Reil et al. teach the forming device (65, fig. 3) positioned to coincide with the feed station and bend the blank around the former of shape corresponding to the shape of the tubular element. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the forming device as taught by Reil et al. in the modified system for forming containers of German Patent to bend the blank around the former in the shape of the tubular element.

6. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over German Patent (3531728) and Nishio et al. as applied to claim 1 above and further in view of Williams (4530692).

German Patent, as mentioned above, discloses all the limitations, except for a gripper element which will engage the opposite edges of pre creased blank, and thereupon apply a compressive force to the opposite edges such that it will cause the flattened profile of the blank to expand substantially square profile when viewed in section. However, Williams teaches a gripper element (28, 30, figs. 2-3) which will engage the opposite edges of pre creased blank (52, figs. 2-3), and thereupon apply a compressive force to the opposite edges (58a-58d, figs. 2-3) such that it will cause the

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flattened profile of the blank to expand substantially square profile (see col. 3, lines 5-20). Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the gripper element as taught by Williams in the system for forming containers of German Patent to cause the flattened profile of the blank to expand substantially square profile.

### ***Response to Arguments***

7. Applicant's arguments with respect to claims 1-10 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hemant M. Desai whose telephone number is (571) 272-4458. The examiner can normally be reached on 6:30 AM-5:00 PM, Mon-Thurs..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I. Rada can be reached on (571) 272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

*Hemant M. Desai.*

Hemant M Desai  
Examiner  
Art Unit 3721

HMD